

ROYAL COMMISSIONS AMENDMENT ACT

No. 72 of 1990

AN ACT to amend sections 4, 13, 14, 16, 19 and 20 of the *Royal Commissions Act 1968*, to repeal sections 15 and 18 of that Act, and to insert sections 19A and 19B into that Act.

[Assented to 20 December 1990.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Royal Commissions Amendment Act 1990*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Royal Commissions Act 1968* is referred to as the principal Act.

Section 4 amended

4. Section 4 of the principal Act is amended by deleting the definition of “section” and substituting the following definition—

“ “documents” includes things that are documents within the meaning of section 79B of the *Evidence Act 1906*. ”.

Section 13 amended

5. Section 13 of the principal Act is amended—

(a) in subsection (1) by deleting—

“he is guilty of an offence.

Penalty: One thousand dollars.”

and substituting the following—

“ he may be dealt with on the motion of the Attorney General as if he were in contempt of the Supreme Court and the Supreme Court has jurisdiction accordingly. ”;

(b) in subsection (2) by deleting “a prosecution” and substituting the following—

“ contempt proceedings ”;

(c) in subsection (3) by deleting “In” and substituting the following—

“ Subject to subsection (4), in ”; and

(d) by inserting after subsection (3) the following subsection—

“ (4) Notwithstanding section 31 (2), a person is not excused from producing any documents, books, or writings as required by a summons served pursuant to section 9 on the ground that the production of the documents, books, or writings might incriminate or tend to incriminate the person or render the person liable to a penalty. ”.

Section 14 amended

6. Section 14 of the principal Act is amended—

(a) by inserting after the section designation “14.” the subsection designation “(1)”;

(b) by deleting—

“he is guilty of an offence.

Penalty: One thousand dollars.”

and substituting the following—

“ he may be dealt with on the motion of the Attorney General as if he were in contempt of the Supreme Court and the Supreme Court has jurisdiction accordingly. ”;
and

(c) by inserting the following subsection—

“ (2) Notwithstanding section 31 (2), when any question relevant to the inquiry is put to a person by the Commissioner the person is not entitled to refuse to answer the question on the ground that the answer might incriminate or tend to incriminate the person or render the person liable to a penalty. ”.

Section 15 repealed

7. Section 15 of the principal Act is repealed.

Section 16 amended

8. Section 16 of the principal Act is amended in subsection (4) by deleting “relieve him from any liability incurred by him” and substituting the following—

“ prevent the witness from being dealt with for contempt pursuant to section 13 (1) ”.

Section 18 repealed

9. Section 18 of the principal Act is repealed.

Section 19 amended

10. Section 19 of the principal Act is amended—

- (a) in subsection (2) by deleting “and a person” and substituting the following—

“ and, without limiting the operation of section 19A, a person ”;

and

- (b) by repealing subsections (3) and (4).

Sections 19A and 19B inserted

11. After section 19 of the principal Act the following sections are inserted—

General provisions as to private hearings

“ **19A.** If a Commission is taking evidence in private, or conducting the inquiry in private, a person who is not expressly authorized by the Commission to be present shall not be present and, notwithstanding any other law—

- (a) the Commission is not required to authorize the presence of any person except that when evidence is being taken from a witness in private a person authorized by the Commission to appear before it for the purpose of representing that witness is entitled to be present;
- (b) the Commission is not required to make known to any person, during the course of the inquiry, the content or nature of any evidence taken in private.

Restriction of publication of documents etc.

19B. (1) A Commission may direct that any evidence given before it, or the contents of any documents, books or writings produced at the inquiry shall not be published.

(2) A person who, without permission of the Governor, makes any publication in contravention of any direction under subsection (1) may be dealt with on the motion of the Attorney General as if he were in contempt of the Supreme Court and the Supreme Court has jurisdiction accordingly. ”.

Section 20 amended

12. Section 20 of the principal Act is amended by inserting before “proceedings”, where it first occurs, the following—

“ contempt proceedings or”.
